

LEGISLATIVE BILL 65

Approved by the Governor March 4, 1981

Introduced by Nichol, 48

AN ACT to amend sections 74-1302 to 74-1304, and 74-1308, Reissue Revised Statutes of Nebraska, 1943, and section 74-1305, Revised Statutes Supplement, 1980, relating to railroad transportation safety districts; to allow the inclusion of more than one municipality in a district; to change a penalty; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 74-1302, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

74-1302. Whenever, in a county in which is located a city or cities of the primary or first class, it will be conducive to the public health, safety, convenience, or welfare (1) to move, relocate, or remove any railroad tracks or railroad right-of-way, including improvements thereon, (2) to relocate or remove any railroad yard or switch yard or switch tracks, (3) to change, construct, eliminate, or reconstruct, including the use of protective devices of any kind or nature, any highway or street crossing of a railroad property, (4) to move, construct, or reconstruct any railroad bridge, viaduct, or subway, or (5) to acquire, negotiate, sell, or eliminate any joint trackage operating rights or any rights of other individuals or entities over, in, or on any railroad tracks, rights-of-way, switch yards, or switch tracks, or (6) to do any two or more of such things jointly, a special district to be known as a Railroad Transportation Safety District may be formed and may proceed, as provided in sections 74-1301 to 74-1309, for the purpose of inaugurating, developing, and negotiating for programs which may involve the constructing, reconstructing, leasing, maintaining, or selling of such work or works of public transportation improvement.

Sec. 2. That section 74-1303, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

74-1303. Such a district shall be formed by the adoption of a resolution of formation, after a finding

that such district is conducive to the public health, safety, convenience, or welfare, by the city council of the city or cities and by the county commissioners of any county in which such city or cities are located. Such district shall then come into existence in accordance with the date set in the resolutions of formation.

Sec. 3. That section 74-1304, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

74-1304. (1) If a district is formed which includes only one city, such Such district shall be governed by a board of directors made up of three members from the city council of such city adopting such resolution, which members shall be designated by such council, and of three members from the county commissioners of such county adopting such resolution, which members shall be designated by such the county commission board.

(2) If a district is formed which has two or more cities of the primary or first class, such district shall be governed by a board of directors made up of three members from each city council adopting such resolution, which members shall be designated by such council, and of three members from the county commissioners of such county adopting such resolution which members shall be designated by the county board. When participating in the district's affairs, the members representing the cities shall each have one vote and the members representing the county shall each have one vote for each city represented, so that the total number of votes of members of the cities is equal to the total number of votes of members of the county.

(3) In each instance such designated individual shall be an elected member of such body. No additional compensation shall be paid to such directors, but such directors shall be paid their actual expenses while engaged in the business of the district. Such directors shall be appointed annually by the respective bodies, or when a vacancy shall earlier occur.

Sec. 4. That section 74-1305, Revised Statutes Supplement, 1980, be amended to read as follows:

74-1305. Such district shall have the power, right, and authority after notice and public hearing (1) to purchase within or without such county railroad rights-of-way including the improvements thereon, (2) to purchase land not presently owned or used by any railroad company for additional right-of-way or additional switch

or yard space where changes of routes or construction of interconnections or of new railroad yards is necessary or desirable, and (3) to acquire through the exercise of the power of eminent domain, but only upon the vote of five-sixths of the directors of such district, which vote shall require a five-sixths majority in districts governed pursuant to subsection (1) of section 74-1304 and a two-thirds majority in districts governed pursuant to subsection (2) of section 74-1304, and the written approval by each railroad involved in the contemplated relocation project, such land as set forth in subdivision (2) of this section for the purposes set forth therein, which acquisition shall follow the procedures set forth in sections 76-704 to 76-724.

Such land and improvements as may be acquired for the purpose of the removal of railroad trackage may be disposed of by conveying the same for reasonable consideration to a governmental entity for public purposes or by sale of the same as set forth in this section. Such new railroad rights-of-way, switches, and yards as may be obtained and constructed may be leased for use to railroads or may be sold to such railroads or may be traded to such railroads for other property belonging to such railroads.

Such property, real or personal, shall be sold in such manner and under such terms and conditions as the board shall deem in the best interests of the district; except that where the fair market value exceeds five thousand dollars it may only be sold after due notice and hearing by such board at a regular meeting upon the vote of a majority of such board.

The board of directors of such district shall also have the right and authority to enter into contracts or other arrangements with the United States government or any department thereof, with persons, railroads, or other corporations, with political subdivisions, public and municipal corporations, and the state government of this state, making full use of the Interlocal Cooperation Act, for (1) cooperation or assistance in the design, construction, maintenance, sale, or lease of the works of the district, (2) making surveys and investigations or reports in relation to the objectives of the district, (3) cooperation or assistance in obtaining the construction, maintenance, or operation of a work or works of public improvement within the district for any of the purposes described in section 74-1302, (4) receiving the title or possession, or both, of any property and funds whatsoever that are connected directly or indirectly with the purposes described in section 74-1302, (5) assuming, and becoming bound by, any

obligations, promises, or covenants whatsoever which are so connected, or (6) holding and saving the United States or others free from damages resulting from any construction works that may be undertaken.

Prior to implementing any plans affecting matters of planning by or the interests of any planning commission located within such district, the interests of any municipality, county or state educational institution or school district a portion of which lies within such district, any agricultural society, any airport authority, any natural resources district, or any other similar political entity, and any railroads, shippers, and affected property owners, the board shall consult with and submit such plans to such entities as may be concerned for study, review, comment, and suggestion. Approval of any state or federal regulatory agency shall be secured, when necessary, prior to implementing any of the provisions contained in sections 74-1301 to 74-1309 and the district shall comply with the requirements of any such agency.

In developing plans for specific projects, to determine the feasibility of implementing the purposes of sections 74-1301 to 74-1309, the district shall examine the costs and benefits to the community or communities, the railroads, and the highway users, and shall calculate the costs and benefits by consideration being given but not limited to loss of revenue, increased operating costs, costs of installation, acquisition of real and personal property, relocation, signalization, communication, utilities, avoidance of hazards, creation of transportation efficiencies, resolving conflicts of land use, and any other ancillary or peripheral costs or benefits.

Sec. 5. That section 74-1308, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

74-1308. (1) The board of directors shall annually elect a president, vice president, secretary, and such other officers as may be necessary. The board shall cause to be kept accurate minutes of its meetings and accurate records and books of account, conforming to approved methods of bookkeeping, clearly setting out and reflecting the entire operation, management, and business of the district, which shall be kept at the principal place of business of the district. All books, papers, and vouchers shall be subject to public inspection at reasonable hours, and the district shall be subject to Chapter 84, article 14.

(2) The treasurer of such district shall be the treasurer of the county of such district and shall annually make a detailed report in writing of all receipts and disbursements. The report shall contain a statement of (a) the funds on hand belonging to the district; (b) the amount, if any, in the hands of the county treasurer; (c) all money received during the preceding year from all sources; and (d) all items of disbursement during such year and the purposes for which the same have been paid out, including all compensation paid to officers of the district and all other expenses of administration. The report shall be verified under oath. A copy of the same shall be filed annually with the county clerk of the county.

(3) Such officers and employees as may be designated by the board of directors shall furnish bonds in such amounts as may be fixed by the board of directors. Such bonds shall be conditioned upon the faithful performance of the duties of each such officer or employee and the proper accounting for all funds or property coming into the hands of each such officer or employee. Such bonds shall (a) run to the district; (b) be signed by a surety or sureties to be approved by the county clerk of the county; and (c) be filed and recorded in the office of such county clerk.

(4) If any such treasurer shall fail or neglect to make out the report or file the same with the county clerk, as required by subsection (2) of this section, or if any officer of such district shall neglect or refuse to submit for inspection any records or papers of such district upon demand of any person interested, or shall otherwise neglect to perform any duties imposed upon him or her by this section, he or she shall be guilty of a Class V misdemeanor, and shall, upon conviction thereof, be fined not less than fifty nor more than one hundred dollars.

Sec. 6. That original sections 74-1302 to 74-1304, and 74-1308, Reissue Revised Statutes of Nebraska, 1943, and section 74-1305, Revised Statutes Supplement, 1980, are repealed.

Sec. 7. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.